



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.R.P. (MD) (PD) No.1159 of 2014

and

M.P (MD) No.1 of 2014

M.Gomathi

... Petitioner/Petitioner/Plaintiff

-vs-

Anbuselvan

... Respondent/Respondent/1st Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 18.11.2013 in I.A.No.687 of 2011 in O.S.No.48 of 2007 on the file of the II Additional District Judge, Tiruchirpalli.

For Petitioner : Mr.M.Subash Babu

For Respondent : Mr.J.Anandkumar

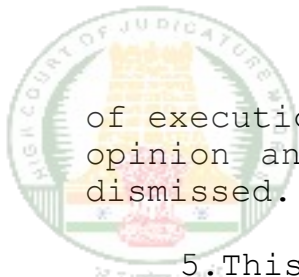
ORDER

The present Civil Revision Petition has been filed to set aside the fair and decreetal order dated 18.11.2013 made in I.A.No.687 of 2011 in O.S.No.48 of 2007 on the file of the II Additional District Judge, Tiruchirpalli.

2.The facts of the case, in a nutshell, are that the revision petitioner is the plaintiff and the respondent is the first defendant. The suit was filed for a preliminary decree for partition and other reliefs. In the suit, the petitioner has filed the above application, seeking to appoint an Advocate Commissioner and to send Ex.B10, Will for comparison of the signatures in Ex.B10 with the admitted signatures found in Ex.B6 to Ex.B8, to the forensic laboratory and for expert's opinion. Since the said application was dismissed, by the impugned order, this Civil Revision Petition has been filed.

3.The learned counsel for the petitioner would submit that the respondent has relied upon an unregistered Will, which is a fabricated one and hence, the same is to be sent to forensic laboratory for an expert's opinion and that the opinion of the expert is necessary to prove his case and the court below erred in dismissing the application and he would pray for setting aside the impugned order, by allowing this civil revision petition.

4.The learned counsel for the respondent has submitted that the application was filed belatedly after completion of examination of the attesting witnesses and that the application is filed only to fill up the lacuna and to protract the case and that there is no bona fide reasons for allowing the application and that mere denial



of execution of the Will cannot be a ground for seeking the expert's opinion and in such circumstances, this revision is liable to be dismissed.

5.This Court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.

6. Considering the facts and circumstances of the case and the fact that after the period of 6 years from the date of filing the written statement, the petitioner filed the above application to send the document for expert opinion belatedly and since sufficient reasons have not been stated by the petitioner for the delay in filing the above application, finding no merits in the revision, this Court is not inclined to allow this petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

msa/cp

To:

The II Additional District Judge,
Tiruchirpalli.

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M.P(MD) No.1 of 2014
02.07.2021

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